

# MANDATE

05-10470  
USSC:LA  
WOL

## United States Court of Appeals For the First Circuit

No. 06-1806

PETER F. TINKHAM, ET AL.,

Plaintiffs, Appellants,

v.

DOREEN R. KELLY, ET AL.,

Defendants, Appellees.

Before

Torruella, Circuit Judge,  
Stahl, Senior Circuit Judge,  
and Howard, Circuit Judge.

### JUDGMENT

Entered: April 11, 2007

We have reviewed the parties' briefs and/or memoranda and the record on appeal. We conclude that, although the district court's judgment of dismissal was "without prejudice", it evidenced sufficient indicia of finality so that we may properly assert appellate jurisdiction over it. See, e.g., Acevedo-Villalobos v. Hernandez, 22 F.3d 384, 389 (1st Cir. 1994) (holding that a dismissal of a complaint without prejudice that does not expressly grant leave to amend is a final decision from which a timely appeal may be taken).

Turning to the merits, the district court granted the appellees' motions to dismiss on the ground that the complaint failed to comply with Fed. R. Civ. P. 8(a)(2). We review such a dismissal only for abuse of discretion. Kuehl v. FDIC, 8 F.3d 905, 908 (1st Cir. 1993). There was no abuse of discretion here.

The appellees' motion for summary disposition is granted.

The judgment of the district court entered on March 20, 2006 is affirmed. Loc. R. 27.0(c).

By the Court:

Richard Cushing Donovan, Clerk.

**Certified and Issued as Mandate  
under Fed. R. App. P. 41.**

**Richard Cushing Donovan, Clerk**

  
**Deputy Clerk**

**Date:** 07/20/07

**MARGARET CARTER**

By: \_\_\_\_\_  
Chief Deputy Clerk.

[cc: Peter F. Tinkham, Juliet B. Alexander, Samantha Tinkham,  
John J. Davis, Esq., Ernest L. Sarason, Jr., AAG,  
Stephen Dick, AAG, Matthew Q. Berge, AAG]